

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ABDIQAFAR WAGAFE, *et al.*, on behalf  
of themselves and others similarly situated,

Plaintiffs,

v.

DONALD TRUMP, President of the  
United States, *et al.*,

Defendants.

No. 2:17-cv-00094-RAJ

**PLAINTIFFS' SUPPLEMENTAL BRIEF  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR SANCTIONS**

**Note on Motion Calendar: March 27, 2019**

The Court's February 27, 2019 Order (Dkt. 223) directed Plaintiffs to file a supplemental brief detailing the fees incurred in preparing and filing their Motion for Sanctions. Plaintiffs request the Court award \$73,476.08 for counsel's work on Plaintiffs' Motion for Sanctions. Plaintiffs arrived at this figure using the lodestar method—which carries a strong presumption that the amount requested is a reasonable fee—and is supported by attorney declarations included herewith.

**1. The lodestar method establishes a presumptively reasonable fee.**

To determine whether the requested fees are reasonable, the court applies the lodestar method. *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). The lodestar is determined by multiplying a reasonable hourly rate or rates by the number of hours reasonably expended in the litigation. *Id.* There is a "strong presumption" that the lodestar amount constitutes a "reasonable"

1 fee. *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 554 (2010); *see also* Dkt. 223 at 10 (“The  
 2 lodestar figure is presumptively a reasonable fee award.”). Thus, “it should only be enhanced or  
 3 reduced in rare and exceptional cases.” *Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 n.4 (9th  
 4 Cir. 2000) (internal quotation marks omitted).

5 **2. The Court has already determined that counsel’s rates are reasonable.**

6 The Court reviewed the requested rates for Plaintiffs’ attorneys and found them  
 7 reasonable in its Order granting in part Plaintiffs’ Motion for Sanctions. *See* Dkt. 223 at 11.

8 In reaching that determination, the Court relie[d] on declarations  
 9 that the rates identified are the normal hourly rates, the experience  
 10 of Plaintiffs’ attorneys, the Declaration of Carol Sobel (Dkt. # 138)  
 11 to the extent it addresses the rates of attorneys outside of this  
 District, Defendant[s]’ lack of stated opposition to the  
 reasonableness of the rates, and on its familiarity with legal fees in  
 the Western District of Washington at the relevant time period.

12 *Id.*; *see also* Declarations of Carol Sobel (Dkt. 138), Hugh Handeyside (Dkt. 139), Matt Adams  
 13 (Dkt. 141), Nicholas P. Gellert (Dkt. 142), Sameer Ahmed (Dkt.143), Stacy Tolchin (Dkt. 144),  
 14 and Trina Realmuto (Dkt. 145) (setting forth the attorneys’ skill, experience, and the rate  
 15 structure employed).

16 Nothing has changed since the Court’s February 27, 2019 Order for the Court to now find  
 17 the rates unreasonable. In awarding fees related to Plaintiffs’ Motion to Compel, this Court  
 18 applied the 2017 rates for the work that was done in that year. Plaintiffs request that the Court  
 19 apply the 2018 rates because all of counsel’s work in preparing and filing the Motion for  
 20 Sanctions was completed in 2018. *Cf. Gates v. Deukmejian*, 987 F.2d 1392, 1406 (9th Cir. 1992)  
 21 (“[D]istrict courts have the discretion to compensate prevailing parties for any delay in the  
 22 receipt of fees by awarding fees at current rather than historic rates in order to adjust for inflation  
 23 and loss of the use [of] funds.”).

1       **3. The time Plaintiffs’ counsel spent litigating the motion and the fee award requested**  
 2       **are reasonable.**

3       Plaintiffs’ counsel collectively spent 132.25 hours to prepare and file the Motion for  
 4       Sanctions and the reply brief in support of the Motion.<sup>1</sup> The supplemental declarations of Matt  
 5       Adams, Sameer Ahmed, Nicholas P. Gellert, Hugh Handeyside, Trina Realmuto, and Stacy  
 6       Tolchin, submitted herewith, attach the documentation of the time spent strategizing, preparing,  
 7       and filing the Motion for Sanctions. *See Hensley*, 461 U.S. at 433 (explaining that the party  
 8       seeking fees bears the burden of documenting the hours expended in the litigation and must  
 9       submit evidence supporting the fee request.); *Thomas v. Cannon*, No. 3:15-05346 BJR, 2018 WL  
 10       1517662, at \*1 (W.D. Wash. Mar. 28, 2018) (“As a general rule, the court should defer to the  
 11       winning lawyer’s professional judgment as to how much time he was required to spend on the  
 12       case.” (internal quotation marks omitted)).

13       Plaintiffs’ request \$73,476.08 for 132.25 hours of work at hourly rates of \$415.36 to  
 14       \$815.62. The requested fee is presumptively reasonable because it is based on the lodestar  
 15       method. The fee award is also reasonable “in light of the complicated and difficult nature of the  
 16       case,” Dkt. 223 at 11, the complexities related to the relief sought in Plaintiffs’ Motion for  
 17       Sanctions, the parties’ thorough briefing, and the effect of the sanctions motion on Defendants’  
 18       conduct. As the Court observed, it took multiple motions, including the Motion for Sanctions, for  
 19       Defendants to offer an explanation for their delayed privilege assertions “that passed muster.” *Id.*  
 20       at 9. Despite multiple Court orders directing Defendants to produce discovery, it was not until  
 21       Defendants’ response to the sanctions motion that Defendants articulated “a credible basis for  
 22       their privilege assertions as to [the Named Plaintiffs] unredacted A-Files . . . .” *Id.*

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 26       <sup>1</sup> Other attorneys at Perkins Coie (besides Nicholas P. Gellert, David Perez, and Laura  
 Hennessey) contributed to Plaintiffs’ Motions for Sanctions, but Plaintiffs have elected to not  
 include their work in the request for a fee award relating to the motion. Plaintiffs may seek  
 recovery of fees for such other Perkins Coie attorneys as may be appropriate in the future.

The fee amount represents the sum of the hours and fees claimed in the Supplemental Declarations as follows:

Timekeeper	2018 Hourly Rate	Hours Worked	Total
Hugh Handeyside	\$676.85	5.9	\$3,993.42
Matt Adams	\$815.62	8.1	\$6,606.52
Nicholas P. Gellert	\$630	8.1	\$5,103
David Perez	\$575	20.3	\$11,672
Laura Hennessey	\$490	73.1	\$35,819
Sameer Ahmed	\$600.38	8.25	\$4,953.14
Stacy Tolchin	\$676.85	5.5	\$3,722.68
Trina Realmuto	\$815.62	0.9	\$734.06
Kristin Macleod-Ball	\$415.36	2.1	\$872.26
<b>TOTAL:</b>		132.25	\$73,476.08

#### 4. Conclusion

Plaintiffs respectfully request the Court award \$73,476.08; this figure represents the reasonable attorneys' fees incurred in litigating Plaintiffs' Motion for Sanctions. Plaintiffs further request that this amount, along with the \$50,507.92 the Court has already ordered Defendants pay in connection with Plaintiffs' Motion to Compel, *see* Dkt. 223, be paid within 30 days of the Court's order to the Perkins Coie Trust Account.

Respectfully submitted,

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DATED: March 13, 2019

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**CERTIFICATE OF SERVICE**

I certify that on the date indicated below, I caused service of the foregoing document via the CM/ECF system, which will automatically send notice of such filing to all counsel of record.

DATED this 13th day of March, 2019, at Seattle, Washington.

s/ Cristina Sepe

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